

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff

v.

KEVIN SHAWN STUBBS,

Defendant

Case No.: 2:19-cr-00142-APG-DJA

**Order Accepting Magistrate Judge's
Report and Recommendation and Denying
Motion to Suppress**

[ECF Nos. 77, 88]

Defendant Kevin Stubbs filed a motion to suppress evidence obtained from the Government's allegedly illegal search of his cell phone. ECF No. 77. After conducting an evidentiary hearing, Magistrate Judge Albregts recommended that the motion to suppress be denied. ECF No. 88. Mr. Stubbs filed an objection to that recommendation (ECF No. 92) and the Government filed a response (ECF No. 94). I have conducted a *de novo* review of the motion to suppress and related papers as required by Local Rule IB 3-2(b). Judge Albregts' Report and Recommendation sets forth the proper legal analysis and factual basis for the decision. I therefore adopt his findings as my own.

I have also considered the argument Mr. Stubbs raised for the first time in his objection, that the law enforcement officers violated the initial search warrant order by identifying Target Phone 2 that was the subject of the second search warrant and pen register. The testimony presented at the evidentiary hearing proves that Officer Ferron identified Target Phone 2 from information gathered from the pen register data of Target Phone 1. He then investigated calls made from the Clark County Detention Center and confirmed his suspicion that Mr. Stubbs was using Target Phone 2. These steps did not violate the order regarding Target Phone 1 because they did not involve "information collected or derived from" a non-target device. *See* ECF No. 92-1 at

1 5-6 (emphasis added). Officer Ferron was authorized to gather information from Target Phone 1,
2 which he did. And he was authorized to use that information to further his investigation, including
3 following the path to Target Phone 2.

4 I THEREFORE ORDER that Magistrate Judge Albregts' Report and Recommendation
5 **(ECF No. 88) is accepted.** Mr. Peraza's motion to suppress **(ECF No. 77) is denied.**

6 DATED this 11th day of September, 2020.

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ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE